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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 WORDTECH SYSTEMS, INC., No. 2:04-cv-01971-MCE-EFB
12 a California corporation

13 Plaintiff,

14 v.

MEMORANDUM AND ORDER

15 INTEGRATED NETWORK SOLUTIONS,
16 INC., dba INTEGRATED NETWORK
17 SOLUTIONS, CORP. aka
18 INTEGRATED NETWORK SOLUTIONS
aka INTEGRATED SYSTEMS aka
INTEGRATED NETWORK STORAGE
COMPANY aka INSC; et al.,

19 Defendants.

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21 Wordtech Systems, Inc. ("Plaintiff"), filed the instant
22 action on September 22, 2004, alleging that Defendants infringed
23 on various of its patents. On November 17, 2008, a jury
24 unanimously found for Plaintiff, determined the infringement was
25 willful, and awarded Plaintiff \$250,000.

26 The Court then directed the parties to submit simultaneous
27 briefing on the issues of enhanced damages and attorneys' fees.

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1 Pursuant to the Court's Order, the parties filed their papers on
2 December 4, 2008. This Court subsequently awarded Plaintiff
3 treble damages, pre-judgment interest on the compensatory award,
4 attorneys' fees, post-judgment interest, and costs. The Court
5 also ordered further briefing on the calculations of each of
6 these figures, and now finds as follows.¹

ANALYSIS

I. ATTORNEYS' FEES AWARDED PURSUANT TO 35 U.S.C. § 285 AND THIS COURT'S JANUARY 15, 2009, MEMORANDUM AND ORDER

Pursuant to 35 U.S.C. § 285, “[t]he court in exceptional cases may award reasonable attorney fees to the prevailing party.” In its prior Order, the Court held such fees are appropriate here. Thus, the only issue remaining is the requisite valuation.

Plaintiff seeks a total of \$745,759.71, comprised of:

- 1) \$150,197.71 allocated to Janine Ogando, In-House Counsel;
2) \$65,837.00 allocated to Richard Peterson, Patent Attorney;
3) \$107,800.00 allocated to Heidi Timken, Partner, Timken,
Johnson & Hwang ("TJH"); 4) \$11,352.50 allocated to Leslie
Johnson, Partner, TJH; 5) \$181,252.50 allocated to Ki Hwang,
Associate, TJH; 6) \$29,640 allocated to Elizabeth Hwang,
Associate, TJH; and 7) \$199,680.00 allocated to Christian
Martinez, In-House Counsel. Defendants challenge Plaintiff's fee
request on several grounds, each of which is addressed below.

¹ Because oral argument will not be of material assistance, the Court ordered this matter submitted on the briefing. E.D. Cal. Local Rule 78-230(h).

1 **A. The Applicable Law**

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3 "The amount of the award is assessed at the discretion of
4 the district court." Lam, Inc. v. Johns-Manville Corp., 718 F.2d
5 1056, 1068 (Fed. Cir. 1983) (internal citations omitted). "The
6 most useful starting point for determining the amount of a
7 reasonable fee is the number of hours reasonably expended on the
8 litigation multiplied by a reasonable hourly rate. This
9 calculation provides an objective basis on which to make an
10 initial estimate of the value of a lawyer's services." Hensley
11 v. Eckerhart, 461 U.S. 424, 433 (1983).

12 "A reasonable hourly rate is the prevailing market rate,
13 defined as the rate prevailing in the community for similar
14 services by lawyers of reasonably comparable skill, experience,
15 and reputation." Sabella v. Secretary of the Dept. Of Health and
16 Human Servs., --- Fed. Cl. ----, 2009 WL 539880, at *3 (Fed. Cl.)
17 (internal citations and quotations omitted). "Many courts
18 applying this standard conclude that a particular attorney's
19 billing rate is relevant, but not dispositive," evidence of
20 reasonableness. ICU Medical, Inc. v. Alaris Medical Systems,
21 Inc., 2007 WL 6137002, at *3 (C.D. Cal.).

22 "In fixing an award of attorneys' fees in those actions in
23 which such an award is appropriate, the Court will consider the
24 following criteria: (1) the time and labor required of the
25 attorney(s); (2) the novelty and difficulty of the questions
26 presented; (3) the skill requisite to perform the legal service
27 properly; (4) the preclusion of other employment by the
28 attorney(s) because of the acceptance of the action;

1 (5) the customary fee charged in matters of the type involved;
2 (6) whether the fee contracted between the attorney and the
3 client is fixed or contingent; (7) any time limitations imposed
4 by the client or the circumstances; (8) the amount of money, or
5 the value of the rights involved, and the results obtained;
6 (9) the experience, reputation and ability of the attorney(s);
7 (10) the 'undesirability' of the action; (11) the nature and
8 length of the professional relationship between the attorney and
9 the client; (12) awards in similar actions; and (13) such other
10 matters as the Court may deem appropriate under the
11 circumstances." E.D. Cal. Local Rule 54-293.

12 Additionally, "[t]he district court should exclude from this
13 initial fee calculation hours that were not 'reasonably
14 expended.' Cases may be overstaffed, and the skill and
15 experience of lawyers vary widely. Counsel for the prevailing
16 party should make a good faith effort to exclude from a fee
17 request the hours that are excessive, redundant, or otherwise
18 unnecessary, just as a lawyer in private practice ethically is
19 obligated to exclude such hours from his fee submission. 'In the
20 private sector, 'billing judgment' is an important component in
21 fee setting. It is no less important here. Hours that are not
22 properly billed to one's client also are not properly billed to
23 one's adversary pursuant to statutory authority.'" Hensley, 461
24 at 434 (emphasis in original), quoting Copeland v. Marshall, 641
25 F.2d 880, 891 (D.C. Cir. 1980).

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1 Finally, "it is clearly established in the Ninth Circuit
2 that it is the *applicant's* burden to produce specific evidence,
3 other than the declarations of interested counsel, that the
4 requested rates are in line with those prevailing in the
5 community for lawyers with comparable skill and reputation."
6 Navarro v. General Nutrition Corp., 2005 WL 2333803, *8 (N.D.
7 Cal. 2005); see also Lam, 718 F.2d at 1068 ("In determining the
8 reasonableness of the award, there must be some evidence to
9 support the reasonableness of, *inter alia*, the billing rate
10 charged and the number of hours expended."); PPG Industries, Inc.
11 v. Celanese Polymer Specialties Co., Inc., 840 F.2d 1565, 1570
12 (Fed. Cir. 1988) ("Attorney fees are allowable if they are based
13 on records that are substantially reconstructed and reasonably
14 accurate."). Nevertheless, "where documentation is inadequate,
15 the district court is not relieved of its obligation to award a
16 reasonable fee...[A] district court itself has experience in
17 determining what are reasonable hours and reasonable fees, and
18 should rely on that experience and knowledge if the documentation
19 is considered inadequate." Slimfold Mfg. Co., Inc. v. Kinkead
20 Industries, Inc., 932 F.2d 1453, 1459 (Fed. Cir. 1991) (internal
21 quotations and citations omitted).

22 _____ In the context of the above case law, the Court will now
23 address Defendants' challenges to: 1) the rates sought by
24 Plaintiff for various of its counsel; 2) the reasonableness of
25 hours billed in pursuit of absent or voluntarily dismissed
26 Defendants or on allegedly unsuccessful or duplicative motions;
27 and 3) Plaintiff's evidentiary support for its requested recovery
28 of Ms. Ogando's fees.

1 **B. Reasonable Hourly Rates**

2

3 Plaintiff requests \$325 per hour for the services of
4 Mr. Martinez and two of the TJH associates. Plaintiff also seeks
5 an hourly rates of \$400 and \$475 for the compensation of the TJH
6 partners. With the above legal backdrop in mind, Defendants
7 argue that the reasonableness of these fees is unsupported by the
8 evidence.

9 As a threshold matter, the Court agrees that the evidence
10 submitted by Plaintiff in support of its proposed rates is
11 minimal. The sole "survey" submitted, which provides only
12 marginal support for rates in the \$325 range, lacks any detailed
13 information pertaining to the individuals listed and contains fee
14 information from various regions not relevant here. The
15 remaining evidence is limited to Mr. Martinez' cursory statements
16 regarding each attorneys' most basic qualifications, statements
17 that provide no real insight into counsels' actual capabilities.

18 Additionally, though technically a patent action, this case
19 was not complicated and did not involve even those fundamental
20 procedures typically standard in such litigation. Indeed, the
21 Court likens this case to one sounding more in breach of contract
22 than patent. No separate Markman hearing was necessary, nor were
23 the details of the infringed upon product particularly
24 cumbersome. Moreover, the jury was able to process all of the
25 facts and return a unanimous verdict on all counts in less than
26 two days. Accordingly, in reaching the reduced rates below, the
27 Court considered both the relative simplicity of the instant
28 action and the inadequacy of Plaintiff's current evidence.

1 In conducting its own survey of reasonable rates in cases
2 the Court considered comparable to this litigation, it also used
3 as additional benchmark the \$300 per hour sought by Plaintiff for
4 the services of Mr. Peterson, a patent attorney admitted to
5 practice in 1967. Defendants do not object to this rate, and the
6 Court agrees that \$300 is a reasonable valuation of
7 Mr. Peterson's services in this locale.

8 In light of the reasonableness of a \$300 per hour fee for an
9 attorney who specializes in patent law and has been practicing
10 for approximately 40 years, the Court further determines \$300 per
11 hour to be equally reasonable rate compensation for the work
12 performed by Leslie Johnson, a TJH partner practicing for nearly
13 as long as Mr. Peterson. Furthermore, since Plaintiff concedes
14 that Ms. Johnson reasonably bills at a higher rate than does
15 Ms. Timken, who, though also a partner has been practicing only
16 since the early nineties, and since the record lacks any
17 information indicating otherwise, the Court finds that \$275 per
18 hour is a reasonable valuation of Ms. Timken's services.

19 For the same reasons, the Court similarly finds it necessary
20 to reduce the rates sought for the more junior attorneys charged
21 with litigating this case. The \$325 rate Plaintiffs initially
22 sought equated to approximately seventy to eighty percent of
23 those rates requested for the services of more senior counsel.
24 Accordingly, this Court finds \$225 per hour, or seventy-five
25 percent of the above awarded \$300 per hour fee, is reasonable
26 compensation for the services of Christian Martinez, Elizabeth
27 Hwang, and Ki Hwang.

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1 These reduced rates are proportionate to those allocated to more
2 experienced counsel and, considering all of the above factors,
3 are commensurate with those applicable in like cases in this
4 market.

5

6 **C. Reasonable Hours Expended**

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8 Defendants next contend that they should not be held liable
9 for the cost of unsuccessful or duplicative labor. Defendants
10 first claim fees paid for litigating against the now dismissed
11 San Juan School District, for pursuing an unsuccessful default
12 judgment against co-Defendant Ehteram Ghodsian, and for
13 attempting to pierce INSC's corporate veil, should be disallowed.
14 According to Defendant, Plaintiff cannot recover litigation
15 expenses incurred in pursuing these unsuccessful motions or in
16 attempting to join Defendants who either never appeared in this
17 Court or were eventually voluntarily dismissed.

18 However, Defendants' argument ignores the results actually
19 achieved by Plaintiff's counsel in this litigation. "When a
20 prevailing party 'has obtained excellent results, his attorney
21 should recover a fully compensatory fee.... Litigants in good
22 faith may raise alternative legal grounds for a desired outcome,
23 and the court's rejection of or failure to reach certain grounds
24 is not a sufficient reason for reducing a fee. The result is
25 what matters.'" Mathis v. Spears, 857 F.2d 749, 756 (Fed. Cir.
26 1988), quoting Hensley, 461 U.S. at 435.

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1 In such circumstances, "[t]he general rule is, that when a
2 wrong has been done, and the law gives a remedy, the compensation
3 shall be equal to the injury. The latter is the standard by
4 which the former is to be measured. The injured party is to be
5 placed, as near as may be, in the situation he would have
6 occupied if the wrong had not been committed." *Id.*, at 753,
7 quoting Albermarle Paper Co. v. Moody, 422 U.S. 405, 418-19
8 (1975). Such a wrong having occurred here, the Court will not
9 reduce the fee award for the cost of the challenged portions of
10 this litigation, which were undertaken in good faith and related
11 to Plaintiff's ultimate success.

12 Indeed, Plaintiff's counsel produced just the sort of
13 excellent results referred to above, and the Court is justified
14 in awarding counsel a fully compensatory fee. The jury in this
15 case unanimously found for Plaintiff on all counts, awarded
16 Plaintiff \$250,000, and determined that Defendants acted
17 willfully. The Court subsequently concluded that the willfulness
18 of Defendants' actions rose to the level warranting treble
19 damages, fees, and costs. Accordingly, Plaintiff was entirely
20 successful in bringing this action, and should be appropriately
21 compensated for the harm it was determined to have suffered.
22 Thus, Defendants' arguments to the contrary are rejected.

23 Defendants next assert that Plaintiff is improperly
24 attempting to recover duplicative fees paid to TJH for work
25 performed litigating other cases. Specifically, according to
26 Defendants, TJH invoices referenced "Amtren" and "Mediatechnics,"
27 indicating charges that should be split among multiple client
28 accounts.

1 Defendants also contend that only \$117,355.00 of the submitted
2 billings refer to any of them by name, rendering the remaining
3 charges unrecoverable.

4 The Court declines Defendants' invitation to award fees for
5 only those billing records that specifically reference them by
6 name and finds the general references to Amtrak to be the result
7 of ministerial error. Nevertheless, there are a number of
8 billings that are properly chargeable not only to this action,
9 but to other pending litigation as well. Accordingly, as
10 follows, the Court hereby reduces the hours comprising the
11 instant award to reflect the fact that a portion of the charges
12 billed should properly be allocated to other clients:

- 13 1. On Statement No. 445, dated May 31, 2007, Ki Hwang
14 billed 1.20 hours for conferring with Leslie
15 Johnson regarding a new lawsuit in the Northern
16 District. Because this entry was apparently
17 allocable, in part, to other litigation, the Court
18 reduced the hours billed by fifty percent to .60.
- 19 2. The billing by Ki Hwang on Statement No. 744,
20 dated October 31, 2007, was similarly reduced by
21 .35 hours.
- 22 3. Several entries from Statement No. 798, dated
23 November 30, 2007, were reduced for the same
24 reasons. Accordingly, Ki Hwang's hours were
25 reduced by 2.25, Heidi Timken's hours were reduced
26 by 5.7, and Leslie Johnson's hours were reduced by
27 1.2.
- 28 4. Similarly, on Statement No. 850, dated December
29 31, 2007, Ki Hwang's hours were reduced by 2.0.

30 Thus, for the above reasons, Plaintiff is entitled to the
31 following reasonable fees:

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1 Richard Peterson: (\$300 x 189.50) + (\$175 x 19.50) +
2 (\$150 x 5) = **\$61,012.50**²

3 Heidi Timken: \$275 x 263.80 = **\$72,545.00**

4 Leslie Johnson: \$300 x 22.7 = **\$6,810.00**

5 Ki Hwang: \$225 x 552.5 = **\$124,312.50**

6 Elizabeth Hwang: \$225 x 91.2 = **\$20,520.00**

7 Christian Martinez: \$225 x 601.90 = **\$135,427.50**

8

9 **D. Reasonableness of Janine Ogando's Fees**

10

11 Finally, Defendants challenge Plaintiff's request for the
12 recovery of fees for work performed by Ms. Ogando arguing that
13 Ms. Ogando was not actually Plaintiff's in-house counsel and that
14 Plaintiff failed to provide adequate documentation for her
15 asserted salary or work performed. Though the Court will
16 undertake here the same type of discussion in which it engaged
17 above, it is most efficient to evaluate Ms. Ogando's fees
18 separately as Plaintiffs sought recovery for her services, not in
19 terms of her hours billed, but instead by reference to her
20 estimated salary.

21 First, there is sufficient evidence in the record to show
22 that Ms. Ogando did operate as in-house counsel for Plaintiff,
23 despite receiving payment from Plaintiff's sister company.
24 Accordingly, Defendants' argument to the contrary fails.

25

26 ² Defendants raise no challenge to the reduced rates
27 attributable to travel time, which the Court agrees are
28 reasonable. Furthermore, the Court rejects Plaintiff's request
to recover \$350 for Mr. Peterson's time in trial, as Mr. Martinez
was charged with onus of the burden of trying this case.

1 However, the Court agrees with Defendants that Plaintiff's
2 only evidence supporting its proposed fee recovery, which is
3 premised on the theory that it is entitled to recover a
4 proportional amount of Ms. Ogando's salary, is not merely
5 inadequate, but is wholly lacking. Plaintiff's evidence consists
6 solely of Ms. Ogando's statements that: 1) on information and
7 belief, but not personal knowledge, over the two-year period
8 during which she litigated this case, her salary plus applicable
9 overhead is estimated to be \$187,747.14; and 2) she spent 80% of
10 her time over the course of those two years on the instant
11 litigation. Her calculations, by conservative estimates result
12 in a billing of over 3000 hours. Nevertheless, Plaintiff
13 submitted no evidence substantiating these numbers.

14 Despite the glaring lack of support for Ms. Ogando's
15 averments, Plaintiff professes that its request is reasonably
16 supported, arguing "Defendants ignore case law permitting an
17 award of attorneys' fees for in-house counsel where reasonably
18 accurate and documented." Reply, 1:27-28. Plaintiff then points
19 to the docket as evidence of Ms. Ogando's work product over the
20 course of her time litigating this case. However, by no stretch
21 of the imagination do Ms. Ogando's minimal statements, even
22 coupled with the docket, constitute reasonably accurate
23 documentation.

24 Thus, there is no way to determine from Plaintiff's conclusory
25 and self-serving assertions alone the amount of recoverable time
26 Ms. Ogando actually expended on this case. Additionally, since no
27 documentation is provided to substantiate her estimated salary and
28 overhead, that evidence is, itself, suspect.

1 Nevertheless, in an attempt to reach some principled decision,
2 and after reviewing the docket for the period in which Ms. Ogando
3 litigated this action, the Court finds 600 hours reasonably
4 allocable to the work performed over the first two years of this
5 protracted litigation.³ However, in light of the almost
6 nonexistent nature of evidence pertaining to Ms. Ogando's work
7 and the Court's consequent inability to determine whether any of
8 the above 600 hours are, *inter alia*, duplicative of other work or
9 partially chargeable to any of Plaintiff's sister companies, the
10 Court determines only 300 of those hours can be properly
11 attributed to Ms. Ogando's work on the instant case.

12 In addition, after considering the same factors that
13 informed the Court's above discussion, the Court next estimates
14 Ms. Ogando's services to be reasonably valued at \$225 per hour.
15 See Milgard Tempering, Inc. v. Selas Corp. Of America, 761 F.2d
16 553, 558 (9th Cir. 1985) (directing the district court to
17 "examine the modern trend toward providing reasonable fees based
18 on the market rate when 'a party is represented by both private
19 counsel and in-house counsel who actively participate in the
20 preparation of the case.'"), quoting B-E-C-K Constructors v.
21 State Dept. Of Hwys., 604 P.2d 578, 585 (Alaska 1979).

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24 ³ In reaching this figure, the Court considered the fact
25 that Ms. Ogando initiated this action, opposed a motion to
26 dismiss and motion for summary judgment, and engaged in extensive
27 and adversarial discovery entailing the filing of multiple
28 motions before this Court. The Court also considered recent case
law evaluating hours expended on similar filings, the hours
required of other attorneys which this Court has already deemed
reasonable, and the need for Ms. Ogando to consult with her co-
counsel, Mr. Peterson, throughout her tenure on this case.

1 While it is possible that, based on the length of time in which
2 she has been admitted to the Bar, this rate could be considered
3 relatively low, the Court is able to reach no other conclusion
4 because Plaintiff provided no details as to Ms. Ogando's
5 expertise, skill, or experience. Accordingly, Plaintiff is
6 entitled to recover a total of **\$67,500.00** for Ms. Ogando's
7 services.

8

9 **E. Conclusion**

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11 In sum, based on the evidence submitted and the above
12 discussion, Plaintiff is entitled to recover **\$488,127.50** in
13 reasonable attorneys' fees.

14

15 **II. PRE-JUDGMENT INTEREST AWARDED**

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17 In its January 15, 2009, Order, the Court awarded Plaintiff
18 pre-judgment interest on the \$250,000 damages award. "[T]he
19 underlying purpose of the provision strongly suggests that pre-
20 judgment interest should ordinarily be awarded where necessary to
21 afford the plaintiff full compensation for the infringement."
22 General Motors Corp. v. Devex Corp., 461 U.S. 648, 654 (1983).
23 "The standard governing the award of prejudgment interest under
24 § 284 should be consistent with Congress' overriding purpose of
25 affording patent owners complete compensation...In the typical case
26 an award of prejudgment interest is necessary to ensure that the
27 patent owner is placed in as good a position as he would have been
28 in had the infringer entered into a reasonable royalty agreement.

1 An award of interest from the time that the royalty payments
2 would have been received merely serves to make the patent owner
3 whole, since his damages consist not only of the value of the
4 royalty payments but also of the foregone use of the money
5 between the time of infringement and the date of the judgment."
6 Id. at 655-656.

7 "The rate of prejudgment interest and whether it should be
8 compounded or uncompounded are matters left largely to the
9 discretion of the district court." Bio-Rad Laboratories, Inc. v.
10 Nicolet Instrument Corp., 807 F.2d 964, 969 (Fed. Cir. 1986).
11 "The district court may 'fix' the interest and select an award
12 above the statutory rate, or select an award at the prime rate.
13 Once the claimant has affirmatively demonstrated that a higher
14 rate should be used, the district court may fix the interest at
15 that higher rate." Lam, 718 F.2d at 1066 (internal citations
16 omitted).

17 Plaintiff seeks application of the California statutory rate
18 applicable in contract actions. See Cal. Civ. Code § 3289(b)
19 ("If a contract entered into after January 1, 1986, does not
20 stipulate a legal rate of interest, the obligation shall bear
21 interest at a rate of 10 percent per annum after a breach").
22 However, Plaintiff also produced evidence at trial showing that
23 the average reasonable royalty rate charged was approximately
24 five percent and the rate charged for past-due payments was ten
25 percent.

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1 Therefore, this Court finds that the California statutory rate
2 for liquidated amounts, which is seven percent and falls in the
3 mid-range of those rates charged for timely and past-due royalty
4 payments, will adequately compensate Plaintiff for the instant
5 infringement. Cal. Const. Art. 15, § 1; See also In re Hayes
6 Microcomputer Products Inc., Patent Litigation, 766 F. Supp. 818,
7 824 (N.D. Cal. 1991) (plaintiff "failed to convince the court of
8 the necessity to depart from the California statutory rate of
9 seven (7) percent."). Accordingly, Plaintiff is hereby awarded
10 simple interest at seven percent accruing from the date of first
11 infringement on each patent. See id. Total interest earned
12 through March 16, 2009, is **\$110,705.47.**⁴

13

14 **III. POST-JUDGMENT INTEREST AWARDED**

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16 Pursuant to 28 U.S.C. § 1961, "[i]nterest shall be allowed
17 on any money judgment in a civil case recovered in a district
18 court...Such interest shall be calculated from the date of the
19 entry of the judgment, at a rate equal to the weekly average
20 1-year constant maturity Treasury yield, as published by the
21 Board of Governors of the Federal Reserve System, for the
22 calendar week preceding the date of the judgment."

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25 ⁴ '298 Patent: \$150,000 x 7% for the period of February 1,
2002, to March 16, 2009 = \$74,765.75

26 '198 Patent: \$50,000 x 7% for the period of April 1, 2003, to
27 March 16, 2009 = \$20,856.16.

28 '932 Patent: \$50,000 x 7% for the period of November 23,
2004, to March 16, 2009 = \$15,083.56.

1 Accordingly, Defendants are ordered to pay post-judgment interest
2 of **.70** percent beginning on the date the Clerk of the Court
3 entered judgment in this case, March 16, 2009. See Federal
4 Reserve board, Selected Interest Rates, available at
5 http://www.federalreserve.gov/releases/h15/data/Weekly_Friday_/H15_TCMNOM_Y1.txt.

7

8 **IV. COSTS**

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10 Finally, Plaintiff submitted a Bill of Costs seeking
11 \$3760.29, including \$105 for fees for service of summons,
12 \$3592.25 for the cost of preparing necessary transcripts, and
13 \$63.04 for witness fees. However, no itemization or
14 documentation was attached supporting Plaintiff's request for
15 service fees or for fees paid to the court reporter. Thus, the
16 Court taxes costs against Defendants only in the amount of
17 **\$63.04.**

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CONCLUSION

In sum, for the above reasons, Plaintiff is entitled to recover **\$488,127.50** in attorney's fees and **\$110,705.47** in pre-judgment interest. Plaintiff is further entitled to recover from Defendants post-judgment interest of **.70** percent calculated from the date of March 16, 2009, through receipt of payment. Finally, costs shall be taxed against Defendant in the amount of **\$63.04**. The Clerk of the Court is directed to issue an Amended Judgment, incorporating the terms of this Order, forthwith.

IT IS SO ORDERED.

Dated: April 10, 2009


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE